In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.26371-M of 2007

**.....**

Date of decision:4.5.2007

Chanan Singh

.....Petitioner

v.

State of Punjab

.....Respondent

....

Present: Mr. Karambir Singh Kahlon, Advocate for the petitioner.

.....

**S.S. Saron, J.** (Oral)

This petition under Section 482 Cr.P.C. has been filed for holding an inquiry with regard to FIR No.1 of 2005 registered at Police Station Harike, District Tarn Taran for the offence under Section 15 of the Narcotic Drugs and Psychotropic Act, 1985 (`NDPS Act' – for short).

Learned counsel for the petitioner has submitted that the brother of the petitioner, namely, Dilbagh Singh has been falsely implicated in the case and that a false story was made by the Police. In fact, Swaran Singh son of Bir Singh was the owner of tractor No.PB 46-5068 which has allegedly been shown in the recovery memo. The said Swaran Singh also submitted an application to SSP, Tarn Taran on 7.6.2005 that his tractor had been taken from his house. He requested that the matter be inquired into as to why his tractor has been taken by the Police when it was never involved in any crime. Thereafter, Swaran Singh got the tractor released on `sapurdari' from the Court of Judicial Magistrate Ist Class, Patti on

29.7.2005 (Annexure-P.2). It is submitted that the brother of the petitioner is absolutely innocent and, therefore, the matter needs to be inquired into.

After giving my thoughtful consideration to the matter, it is appropriate to note that the aggrieved person i.e. Dilbagh Singh has not approached this Court. Learned counsel for the petitioner has submitted that Dilbagh Singh brother of the petitioner is in custody and, therefore, the petition has been filed by Charan Singh. The Supreme Court in The Janta Dal v. H.S. Chowdhary and others, AIR 1993 SC 892 has observed that the requirement of locus standi of a party to a litigation is mandatory; because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy has to be primarily ascertained at the threshold. Therefore, the question of locus standi is confined not only to a public action but also a private action. The petitioner has not been able to show that he is the aggrieved party in the case. In fact in criminal matters it is only the person aggrieved who has a locus standi to approach the Court and seek the necessary relief. In an earlier judgment of the same title i.e. The Janta Dal v. H.S. Chowdhary, JT 1991 (3) SC 497 it was observed that even if there are million questions of law to be deeply gone into and examined in a criminal case registered against specified accused persons, it is for them and them alone to raise all such questions and challenge the proceedings initiated against them at the appropriate time before the proper forum and not for third parties under the garb of public interest litigants. The petitioner, therefore, in the circumstances cannot be said to have any locus standi in the matter.

It may also be noticed that the matter with regard to

investigation of the crime is the sole domain of the Police and Courts normally do not interfere unless it is shown that the Investigating Officer has transgressed the circumscribed limit of prescribed jurisdiction. For this also the petitioner has his remedy before the Illaqa Magistrate. In State of Haryana v. Ch. Bhajan Lal, A.I.R. 1992 S.C. 604 it was held that the field of the investigation is exclusively reserved for the police officers whose powers in that field are unfettered. This, however, is subject to the rider that the power to investigate in respect of cognizable offences is legitimately exercised in strict compliance with the provisions falling under Chapter XII of the Cr.P.C. It was observed that a Magistrate is kept in the picture at all stages of the police investigation but he is not authorized to interfere with the actual investigation or to direct the police how that investigation is to be conducted. But if a police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court on being approached by the person aggrieved for the redressal of any grievance has to consider the nature and extent of the breach and pass appropriate orders as may be called for without leaving the citizens to the mercy of police echelons since human dignity is a dear value of our Constitution. It needs no emphasis that no one can demand absolute immunity even if he is wrong and claim unquestionable right and unlimited powers exercisable up to unfathomable cosmos. Any recognition of such power will be tantamount to recognition of `Divine Power' which no authority on earth can enjoy.

Keeping in view the aforesaid position if the person aggrieved

can show that the investigating authorities have exceeded their jurisdiction or have acted in exercise of their powers to investigate the crime in an inappropriate or illegal manner he is free to approach the Senior Superintendent of Police, Tarn Taran or the Illaqa Magistrate in the first instance in case the charge report (challan) has not been filed.

Keeping in view the above position, the present petition stands disposed of.

May 4, 2007. **(S.S. Saron)**
**Judge**

*hsp*